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February 26, 2013

Via ECF
Honorable Vera Scanlon
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: Francesco Portelos v. New York City Department of Education et al.,
12 Civ. 3141 (RRM)(VS)**

Dear Judge Scanlon:

I write this brief response in opposition to the letter of February 25, 2013, of defendants' counsel Jessica Giambrone.

While I typically have no problem extending courtesies to my City colleagues, it appears that the NYCDOE's tactics is to delay discovery in this case as long as possible and avoid placing relevant witnesses under oath. Mr. Portelos has been reassigned from his duties by the NYCDOE without explanation for over 300 days, without any disciplinary charges whatsoever, and has been "investigated" by the NYCDOE for almost 400 days without resolution of any matters. The NYCDOE likewise recently has delayed a hearing of Mr. Portelos' case at the New York State Public Employment Relations Board (PERB), from March until late July, again on very short notice after many months of no previous objections to the hearing date scheduled.

It is difficult to understand why Ms. Giambrone simply cannot produce any defense witnesses for the entire month of March, when these depositions were noticed in early January, without any objection until recently. She would not even be actively asking questions during these depositions, so it is difficult to understand why she cannot produce any of the four individuals noticed for the entire month of March. Ms. Giambrone, who is fairly recently

assigned to the case herself, clearly also has numerous colleagues who can sit through these depositions in her absence.

For the reasons, we request a brief telephone conference to set firm dates for defendant depositions and responses to plaintiff's discovery requests, which also have not been responded to since January 13, 2013. To date, Defendants have not even served any discovery requests on Plaintiff, and only recently noticed Plaintiff's deposition for a week in April I am not available without seeking to confer with me first.

Thank you for your consideration of this request for a brief conference in this matter to set firm discovery deadlines and deposition dates in this matter.

Respectfully submitted,

/s/

Bryan D. Glass, Esq.
Attorney for Plaintiff

Enclosure

c: Jessica Giambrone, Esq., Assistant Corporation Counsel, Attorney for Defendants (via ECF)